

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
August 2, 2022**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday August 2, 2022, at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Mike Grasso, Chairman, called the meeting to order at 7:25 P.M and roll was taken.

Board Members

Present: Mike Grasso, Joe Burns,
Laura Michaels, Tim Steves,

Absent: Kane Gascon, Robert Hatch

Others Present:

Terry Rech, Building Inspector
Mr. Ray DiRaddo, Town Attorney
Ed Shero, Town Board Member

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the March 1, 2022, meeting. The meeting minutes were approved as submitted. Tim Steves made such a motion; Laura Michaels seconded the motion. The vote was as follows:

Laura Michaels -	Aye
Joe Burns -	Aye
Tim Steves -	Aye
Mike Grasso -	Aye

With all the members voting in favor, the motion was carried.

Second Order of Business:

The application of Gladys and Stephen Luce to seek an amendment to a previous use variance of Section 130-9 and 130-10 to allow a business office / showroom / retail facility in addition to the existing approved bakery use. Property address is 9048 Union St, 14546.

Chairman Grasso stated that there was a variance in the past to operate this property as a bakery and asked Town Attorney, Ray DiRaddo if this application is a new variance or a modification of the variance. Mr. DiRaddo stated that there was no reason as to why the Board could not entertain treating this as a new application. They can view this as a new variance, entertain granting the variance and discuss how to frame it afterwards. The variance is allowed for a specific use. The Board can draw up an original or expand on the existing one. He is not a fan of modifying the existing variance.

Building Inspector, Terry Rech stated that the previous variance was granted to allow a bakery/retail shop. Long term there is a potential of a retail component in this proposed use as well, that is the common thread that drove the amendment, rather than a new application. His preference would be to frame this so that if there was a retail component then decide if retail is appropriate for that area, so they do not have to go back and apply for a variance each time the business changes.

Chairman Grasso made a statement to the board to take note that this is a USE variance. The 4 test points do differ from that of the 5 test points of an area variance. He then stated the 4 test points of a use variance, which are as follows:

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- 1.) The applicant (can, can not) realize a reasonable return. As demonstrated by:
- 2.) That the hardship relating to this property (is, is not) unique, and does not apply to a substantial portion of the district or neighborhood as shown by:
- 3.) That the requested use variance, if granted, (will, will not) alter the essential character of the neighborhood as shown by:
- 4.) That the alleged hardship (has, has not) been self-created as shown by:

Chairman Grasso discussed framing this variance request with a retail component so if another retail request comes the owner does not need to come back for another variance. He discussed being able to streamline retail to be appropriate for the use of the area.

Board members continued with the discussion of the details of the requested variance.

Mr. David Nasradinaj stated to the Board that he is planning to purchase the building to operate a Heating and Cooling business. He is looking for a location where he can have clients come in to look at the equipment they offer, pick up small parts, store inventory and have office space. He needs someplace that looks more professional, currently he is running his business out of his garage. Mr. Nasradinaj also stated that he would have 4-5 service vans at the location.

Chairman Grasso stated that the previous use variance for this property was granted in 1993.

The applicant, Gladys Luce presented and discussed several reasons driving the need for this use variance application:

- Ms. Luce is seeking an amendment to a previous use variance to allow an HVAC business to include office space, a showroom and retail facility in addition to the existing approved bakery use. In 2018 she and her husband put the property (an existing bakery) up for sale. They could not sell it. They worked out an arrangement with a couple to lease the property for 3 years with the option of purchasing the property at the end of the lease. That did not happen. The past tenants took all the equipment, the building is now empty, it can not operate as a bakery at this point. Mrs. Luce stated that Mr. Nasradinaj's proposal to operate the building as a HVAC retail operation was the best offer they received.
- Ms. Luce stated she does not foresee any changing effects to the property except for less traffic on and off Union Street.
- Ms. Luce does not believe she could sell the building for residential use.

There was additional discussion regarding the details of the requested variance.

Building Inspector, Mr. Rech stated that he would like to reiterate that this area has more of a commercial feel than a residential feel. The building was built as a commercial building, and it would be difficult and costly to make it residential.

With no further questions from the Board the floor was opened for public comment at 8:04 P.M.

There being no public before the board, public comment was closed at 8:05 P.M.

Chairman Grasso asked if they could modify the variance and not approve anything and allow a second commercial/retail to occupy the building? Attorney, Mr. DiRaddo stated the Board can extend or enlarge the non-conforming use, referring to section 130-66D2A of the code. He stated that the Board would also be able to put limits on the type of retail. He suggested the Board consider what is being done there now vs. what is going to change.

Chairman Grasso asked the Board if they thought they should table the variance application and take some time to make sure they design this right, so they do not end up with something undesirable in that location and to show they have taken time to consider the current and proposed use.

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Board Member, Tim Steves made a motion to table the application of the use variance of 9048 Union Street to the next meeting. Laura Michaels seconded the motion. The vote was unanimous. The meeting was adjourned at 8:35 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary